

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:12-CR-351-F-2

UNITED STATES OF AMERICA)	
)	
v.)	ORDER
)	
CANDY MEDLIN)	

This matter is before the court on Defendant Candy Medlin's Petition for Leave to Appeal [DE-526]. For the reasons stated herein, the defendant's petition is DENIED.

Federal Rule of Appellate Procedure 4(b)(1) provides that in a criminal case, a defendant's notice of appeal must be filed in district court within 14 days of the entry of judgment. The court entered judgment in this criminal case on January 9, 2014. *See* Judgment [DE-415]. The defendant's notice of appeal, therefore, should have been filed on or before January 23, 2014. The court informed the defendant at sentencing of the 14 day window to file a notice of appeal.

The Federal Rules of Appellate Procedure, however, allows a district court to extend the time for filing a notice of appeal. Specifically, Federal Rule of Appellate Procedure 4(b)(4) provides:

Upon a finding of excusable neglect or good cause, the district court may—before or after the time has expired, with or without motion and notice—extend the time to file a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by this Rule 4(b).

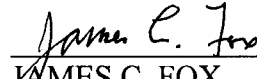
In this case, therefore, the motion to extend time should have been filed no later than February 8, 2014. The defendant's petition, however, was filed on January 8, 2015, eleven months late. The time periods contained within Rule 4(b) are "mandatory and jurisdictional." *United States v.*

Raynor, 939 F.2d 191, 197 (4th Cir. 1991). “A court may not enlarge the appeal period.” *United States v. Stockton*, 240 F. App’x 601, 601-02 (4th Cir. 2007) (citing *United States v. Robinson*, 361 U.S. 220, 224 (1960)). Because the defendant’s petition was filed eleven months beyond the period provided by Rule 4(b)(4), it is untimely and cannot be allowed.

Accordingly, for the foregoing reasons, the defendant’s Petition for Leave to Appeal [DE-526] is DENIED.

SO ORDERED.

This, the 9th day of January, 2015.



JAMES C. FOX
Senior United States District Judge